

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 7323) DISMISSAL AND
6 Walters for Congress and Jen Slater in her) CASE CLOSURE UNDER THE
7 official capacity as treasurer,) ENFORCEMENT PRIORITY
8 Representative Mimi Walters,) SYSTEM
9 Friends of Mimi Walters for Senate 2012,)
10 Senator Mimi Walters 2012 Officeholder Account,)
11 And Friends of Mimi Walters for Supervisor 2014)
12

13 **GENERAL COUNSEL’S REPORT**

14 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
15 basis to allocate its resources and decide which matters to pursue. These criteria include, without
16 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into
17 account both the type of activity and the amount in violation; (2) the apparent impact the alleged
18 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the
19 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as
20 amended (the “Act”), and developments of the law. It is the Commission’s policy that pursuing
21 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial
22 discretion to dismiss cases under certain circumstances.

23 The Office of General Counsel has scored MUR 7323 as a low-rated matter and has
24 determined that it should not be referred to the Alternative Dispute Resolution Office.¹ For the
25 reasons set forth below, we recommend that the Commission dismiss the allegations that Walters for
26 Congress and Jen Slater in her official capacity as treasurer (“the Federal Committee”), Mimi
27 Walters, Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder

¹ The EPS rating information is as follows:
Filed: March 5, 2018.

100-10474-1001

1 Account, and Friends of Mimi Walters for Supervisor 2014 violated the Act or Commission
2 regulations.²

3 The Complaint alleges that the Federal Committee and Walters used campaign funds from
4 her three state campaign committees, Friends of Mimi Walters for Senate 2012, Senator Mimi
5 Walters 2012 Officeholder Account, and Friends of Mimi Walters for Supervisor 2014 (the "State
6 Committees") to benefit her 2014 congressional campaign.³ Specifically, the Complainant alleges
7 that the State Committees, which may have accepted contributions not subject to the limitations and
8 prohibitions of the Act, made payments between July 2013 and November 2014 totaling over \$8,000
9 to Keena Thomas Communications LLC and Thomas Communications Group after Walters
10 announced her federal candidacy in July 2013 and was no longer seeking state office.⁴ Complainant
11 further notes that the Federal Committee also made several expenditures to the same two vendors
12 during that time period.⁵

² Mimi Walters was first elected to Congress to represent the 45th Congressional District of California in 2014. She was reelected in 2016. Walters for Congress was established on July 3, 2013 as her principal campaign committee.

Previously, Walters served as a California State Senator from 2008-2014. Friends of Mimi Walters for Senate 2012 was her state campaign committee. Senator Mimi Walters 2012 Officeholder Account was her campaign committee to defray officially-connected expenses of her state senate office. In 2013, Walters announced her intention to run for Orange County Supervisor. Friends of Mimi Walters for Supervisor 2014 was her state campaign committee. Walters withdrew from the Supervisor race after announcing her candidacy for Congress.

³ Compl. at 1 (Feb. 20, 2018).

⁴ Compl. at 2-4. Complainant identifies three payments to Keena Thomas Communications from Friends of Mimi Walters for Senate 2012 (July 31, 2013 payment of \$125; September 6, 2013 payment of \$1045.40; September 6, 2013 payment of \$737.50), one payment to Keena Thomas Communications from Friends of Mimi Walters for Supervisor 2014 (July 8, 2013 payment of \$938.34), five payments to Keena Thomas Communications from Senator Mimi Walters 2012 Officeholder Account (December 3, 2013 payment of \$1,362.50; December 9, 2013 payment of \$311.50; January 20, 2014 payment of \$832.87; February 6, 2014 payment of \$608.23; March 11, 2014 payment of \$309.00), six payments to Thomas Communications Group from Friends of Mimi Walters for Senate 2012 (June 4, 2014 payment of \$234; July 3, 2014 payment of \$209; August 8, 2014 payment of \$246.50; September 12, 2014 payment of \$184; October 6, 2014 payment of \$184; November 10, 2014 payment of \$309), and one payment to Thomas Communications Group from Senator Mimi Walters 2012 Officeholder Account (April 7, 2014 payment of \$459). *Id.*

⁵ *Id.* at 4. During the 2014 election cycle, the Federal Committee paid \$3,472.23 to Keena Thomas Communications and \$2,473.21 to Thomas Communications Group. *Id.*

1 The Federal Committee and Walters acknowledge that the State Committees made these
2 disbursements, but assert that they were for expenses connected to Walters's position as a California
3 State Senator and her aborted campaign for Orange County Supervisor.⁶ With regards to the
4 payments from the Friends of Mimi Walters for Senate 2012 and Senator Mimi Walters 2012
5 Officeholder Account, the Federal Committee and Walters assert that the payments were for non-
6 state-reimbursed expenses for constituent outreach that Walters incurred in connection with her State
7 Senate duties, as permitted under California law, and that none of the communications or events
8 were connected to Walters's federal campaign.⁷ With regards to the payment from Friends of Mimi
9 Walters for Supervisor 2014, the Federal Committee and Walters maintain that the payment was for
10 services incurred in connection with Walters's aborted campaign for Orange County Supervisor.⁸

11 The Act prohibits a federal candidate from soliciting, receiving, directing, transferring or
12 spending funds in connection with a federal campaign unless the funds are subject to the limitations,
13 prohibitions, and reporting requirement of the Act.⁹ The Act further provides that this prohibition
14 does not apply to the solicitation, receipt, or spending of funds by an individual who is or was also a
15 candidate for a state or local office solely in connection with such election for state or local office so
16 long as the solicitation, receipt, or spending of funds is permitted under state law.¹⁰

⁶ Resp. at 2-4 (Mar. 8, 2018).

⁷ *Id.* at 3.

⁸ *Id.* at 2. The \$938.34 payment to Kenna Thomas Communications from Friends of Mimi Walters for Supervisor 2014 was a monthly retainer for services rendered in the month of June 2013 to the state committee and a \$13.34 postage expense. *Id.*

⁹ 52 U.S.C. § 30125(e)(1). Commission regulations also prohibit a candidate from transferring funds or assets from a candidate's committee for a nonfederal election to her principal campaign committee or other authorized committee for a federal election. 11 C.F.R. § 110.3(d).

¹⁰ 52 U.S.C. § 30125(e)(2).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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3 RESPONDENTS: Walters for Congress and MUR 7323
4 Jen Slater in her official capacity as treasurer,
5 Mimi Walters,
6 Friends of Mimi Walters for Senate 2012,
7 Senator Mimi Walters 2012 Officeholder Account, and
8 Friends of Mimi Walters for Supervisor 2014
9

10 This matter was generated by a complaint alleging violations of the Federal Election
11 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Walters for
12 Congress and Jen Slater in her official capacity as treasurer (“the Federal Committee”), Mimi
13 Walters, Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder
14 Account, and Friends of Mimi Walters for Supervisor 2014. It was scored as a low-rated matter
15 under the Enforcement Priority System, by which the Commission uses formal scoring criteria as
16 a basis to allocate its resources and decide which matters to pursue.

17 The Complaint alleges that the Federal Committee and Walters used campaign funds
18 from her three state campaign committees, Friends of Mimi Walters for Senate 2012, Senator
19 Mimi Walters 2012 Officeholder Account, and Friends of Mimi Walters for Supervisor 2014
20 (the “State Committees”) to benefit her 2014 congressional campaign.¹ Specifically, the
21 Complainant alleges that the State Committees, which may have accepted contributions not
22 subject to the limitations and prohibitions of the Act, made payments between July 2013 and
23 November 2014 totaling over \$8,000 to Keena Thomas Communications LLC and Thomas
24 Communications Group after Walters announced her federal candidacy in July 2013 and was no

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1 longer seeking state office.² Complainant further notes that the Federal Committee also made
2 several expenditures to the same two vendors during that time period.³

3 The Federal Committee and Walters acknowledge that the State Committees made these
4 disbursements, but assert that they were for expenses connected to Walters's position as a
5 California State Senator and her aborted campaign for Orange County Supervisor.⁴ With
6 regards to the payments from the Friends of Mimi Walters for Senate 2012 and Senator Mimi
7 Walters 2012 Officeholder Account, the Federal Committee and Walters assert that the
8 payments were for non-state-reimbursed expenses for constituent outreach that Walters incurred
9 in connection with her State Senate duties, as permitted under California law, and that none of
10 the communications or events were connected to Walters's federal campaign.⁵ With regards to
11 the payment from Friends of Mimi Walters for Supervisor 2014, the Federal Committee and
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13 aborted campaign for Orange County Supervisor.⁶

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2 spending funds in connection with a federal campaign unless the funds are subject to the
3 limitations, prohibitions, and reporting requirement of the Act.⁷ The Act further provides that
4 this prohibition does not apply to the solicitation, receipt, or spending of funds by an individual
5 who is or was also a candidate for a state or local office solely in connection with such election
6 for state or local office so long as the solicitation, receipt, or spending of funds is permitted
7 under state law.⁸

8 The available information shows that the State Committees and Federal Committee used
9 the same vendors,⁹ and the State Committees continued to make payments to the vendors after
10 Walters announced her federal candidacy. The Federal Committee and Walters, however,
11 specifically deny any violation.

12 In furtherance of the Commission's priorities relative to other matters pending on the
13 Enforcement docket, the relatively modest amounts at issue, and the impending statute of
14 limitations,¹⁰ the Commission exercises its prosecutorial discretion and dismisses the allegations
15 as to Walters for Congress and Jen Slater, in her official capacity as treasurer, Mimi Walters,
16 Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder Account,
17 and Friends of Mimi Walters for Supervisor 2014. *Heckler v. Chaney*, 470 U.S. 821, 831-32
18 (1985).

⁷ 52 U.S.C. § 30125(e)(1). Commission regulations also prohibit a candidate from transferring funds or assets from a candidate's committee for a nonfederal election to her principal campaign committee or other authorized committee for a federal election. 11 C.F.R. § 110.3(d).

⁸ 52 U.S.C. § 30125(e)(2).

⁹ The two vendors, Kenna Thomas Communications and Thomas Communications Group, appear related. Kate Keena and Barb Thomas were principals in Keena Thomas Communications, LLC. Resp. at 3. When the principals parted ways, Barb Thomas established Thomas Communications Group. *Id.*

¹⁰ As indicated in note 2, all of the alleged violations relate to 2014 cycle activity, and many were imperiled under the statute of limitations at the time the Complaint was filed.